



Final Regulation Agency Background Document

Agency name	Boards of Nursing and Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 90-30
Regulation title	Regulations Governing the Licensure of Nurse Practitioners
Action title	Implementation of the Nurse Licensure Compact
Document preparation date	May 17, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Proposed regulations will replace emergency regulations adopted by the Board of Nursing as required to comply with the second enactment clause of Chapter 49 of the 2004 Acts of the Assembly, which states “That the Board of Nursing shall promulgate regulations to implement the provisions of the Nurse Licensure Compact to be effective within 280 days of the enactment of this act.” Emergency regulations will expire on July 14, 2005.

Regulations for initial licensure as a nurse practitioner and for renewal or reinstatement of that license require that a person hold a current Virginia license as a registered nurse. Amended regulations include a multistate licensure privilege as an acceptable alternative to the license as a registered nurse.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

Final regulations for 18VAC90-30-10 et seq. to establish consistency in regulations with provisions of the Nurse Licensure Compact implemented on January 1, 2005 were adopted by the Board of Nursing on May 17, 2005 and by the Board of Medicine on May 20, 2005.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Nursing the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...

The specific legal mandate to promulgate the regulation for implementation of the Nurse Licensure Compact is found in:

§ [54.1-3005](#). Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

14. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation; ...

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

In 2003, the General Assembly enacted Chapter 249, which created the authorization for Virginia's membership in the Nurse Licensure Compact effective January 1, 2005. Sections

54.1-3030 through 54.1-3040 provide the legal basis for the Compact and specific statutory language for participation and administration. Amended rules will ensure that persons who are seeking license, renewal or reinstatement as nurse practitioners will be able to do so, whether they hold a license as a registered nurse or a multistate licensure privilege to practice in Virginia as a registered nurse.

The amendments are essential to conform the nurse practitioner regulations to the implementation of the Nurse Licensure Compact and ensure that there is no disruption in the ability of nurse practitioners to become licensed or to renew their licenses. Amended rules are necessary to protect the health and safety of the public by ensuring that all nurses who provide care to patients in Virginia, whether they hold a license or a multistate privilege, will be held to the same standards of conduct.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Proposed regulations include a multistate licensure privilege as an acceptable alternative to the license as a registered nurse for initial licensure as a nurse practitioner and renewal or reinstatement of licensure in Virginia.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

Advantages or disadvantages to the public:

There are no disadvantages to the public; the proposed rules will ensure that nurses practicing in Virginia under a multistate licensure privilege are held to the same standards as those practicing with a Virginia license. Likewise, any limitation or monitoring required by a disciplinary order would be imposed equally. There may be some advantage to the public in that access to health care may be improved by the availability of nurses who reside in other states but will come into Virginia to work. However, the Compact also makes it easier for Virginia nurses to go to other Compact states to work, so the result may not create a net gain for health care in the state.

Advantages or disadvantages to the agency:

There are no specific advantages or disadvantages to the agency or the Commonwealth. Rules to implement the specific provisions of law will give guidance to the Board and its licensees on questions about declaration of a home state, limitations on practice and access to information.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There were no changes made to the text of the regulation since publication of the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published on January 10, 2005 with a 60-day comment period ending on March 11, 2005. A public hearing on proposed regulations was held on January 25, 2005. There were no comments received.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
80	n/a	Establishes qualifications for initial licensure	Adds to the requirement that a person be currently licensed as a registered nurse in Virginia the alternative of holding a multistate licensure privilege as a registered nurse.
100	n/a	Establishes the requirements and schedule for renewal of a nurse practitioner license	Currently, the renewal of a nurse practitioner license is tied to the renewal schedule of one’s license as a registered nurse; the two are renewed at the same time. Since some nurse practitioners will not have a “license” to practice as a registered nurse in Virginia but will be practicing under a multistate licensure privilege, the amended regulation establishes the renewal schedule for a nurse

110	n/a	Establishes the requirements for reinstatement of a nurse practitioner license	<p>practitioner who holds a privilege that follows the current pattern of biennial renewals in the birth month on odd or even years.</p> <p>Adds to the requirement that a person be currently licensed as a registered nurse in Virginia the alternative of holding a multistate licensure privilege as a registered nurse.</p>
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Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact of the proposed regulatory action on the institution of the family and family stability.